

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 349 Theft of Property
SPONSOR(S): Brandenburg
TIED BILLS: **IDEN./SIM. BILLS:** SB 174

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Criminal Justice Committee		Ferguson	Kramer
2) Criminal Justice Appropriations Committee			
3) Justice Council			
4) _____			
5) _____			

SUMMARY ANALYSIS

This bill modifies the definitions of robbery, robbery by sudden snatching, and carjacking, by adding that a person commits the crime by “endeavoring” to commit the crime. Effectively, this bill provides that attempt to commit such crimes is punishable the same as completion of the criminal offense.

The Criminal Justice Estimating Conference estimates that this legislation has a cumulative impact over the next five years of 150 prison beds at a cost of \$14.3 million.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promote personal responsibility- This bill increases criminal penalties for certain offenses.

B. EFFECT OF PROPOSED CHANGES:

Section 812.13, F.S., defines "robbery" as the taking of money or other property which may be the subject of larceny from the person or custody of another, with intent to either permanently or temporarily deprive the person or the owner of the money or other property, when in the course of the taking there is the use of force, violence, assault, or putting in fear. Armed robbery, where the offender carried a firearm or other deadly weapon, is a life felony. Other armed robbery is a first degree felony and unarmed robbery is a second degree felony.

Section 812.131, F.S., defines "robbery by sudden snatching" as the taking of money or other property from the victim's person, with intent to permanently or temporarily deprive the victim or the owner of the money or other property, when, in the course of the taking, the victim was or became aware of the taking. The primary difference is that robbery by sudden snatching, as opposed to robbery, does not require proof of force, violence, assault, or putting in fear. Armed robbery by sudden snatching, where the offender carried a firearm or other deadly weapon, is a second degree felony. Otherwise, robbery by sudden snatching is a third degree felony.

Section 812.133(1), F.S., defines "carjacking" as "the taking of a motor vehicle which may be the subject of larceny from the person or custody of another, with intent to either permanently or temporarily deprive the person or the owner of the motor vehicle, when in the course of the taking there is the use of force, violence, assault, or putting in fear."

Section 777.04(1), F.S., provides that a person who attempts to commit an offense prohibited by law and in such attempt does any act toward the commission of such offense, but fails in the perpetration or is intercepted or prevented in the execution thereof, commits the offense of criminal attempt. The penalty for attempt is based on the penalty for the underlying offense attempted. An attempt to commit a capital felony is punishable as a first degree felony, an attempt to commit a first degree felony is punishable as a second degree felony, and so on. For purposes of the Criminal Punishment Code, an attempt is scored at one level below the substantive offense in the Offense Severity Ranking Chart.

These offenses are summarized in the following chart:

Current law: Robbery Offenses Affected by Bill			
Description of Offense	Offense Level and Max. Penalty	CPC Level, Min. Sentence	Attempt
Robbery with a firearm	Life Felony	Level 9 10/20/Life applies	2nd degree felony, Level 8, 10/20/Life
Robbery with deadly weapon other than firearm	Life Felony	Level 9 48 months	2nd degree felony, Level 8
Robbery with weapon, not deadly, no firearm	1st degree felony, 30 years	Level 8 34.5 months	2nd degree felony, Level 7
Robbery with no weapon	2nd degree felony, 15 years	Level 6 Any nonstate	3rd degree felony Level 5

Current law: Robbery Offenses Affected by Bill			
Description of Offense	Offense Level and Max. Penalty	CPC Level, Min. Sentence	Attempt
Sudden snatching with firearm	2nd degree felony, 15 years	Level 7 10/20/Life applies	3rd degree felony, Level 6, 10/20/Life
Sudden snatching with deadly weapon no firearm	2nd degree felony, 15 years	Level 7 21 months	3rd degree felony Level 6
Sudden snatching, no weapon	2rd degree felony, 15 years	Level 5 Any nonstate	3rd degree felony Level 4
Carjacking with firearm	Life felony	Level 9 10/20/Life applies	2nd degree felony Level 8, 10/20/Life
Carjacking with deadly weapon, no firearm	Life felony	Level 9 48 months	2nd degree felony Level 8
Carjacking without firearm or deadly weapon	1st degree felony	Level 7 21 months	2nd degree felony Level 7

By comparison, note that a person commits the crime of theft “if he or she knowingly obtains or uses, or endeavors to obtain or use, the property of another with intent to” steal the property. Section 812.014(1), F.S.

Effect of Bill

This bill modifies the definitions of robbery, robbery by sudden snatching, and carjacking, by adding that a person commits the crime by “endeavoring” to commit the crime. Effectively, this bill provides that attempt to commit such crimes is punishable the same as completion of the criminal offense.

This bill also adds to the first degree felony of robbery where the offender carries a weapon, s. 812.13(2)(b), F.S., to include a threat to use a weapon or firearm.

C. SECTION DIRECTORY:

Section 1 amends s. 812.13, F.S., to modify the definition of “robbery.”

Section 2 amends s. 812.131, F.S., to modify the definition of “robbery by sudden snatching.”

Section 3 amends s. 812.133, F.S., to modify the definition of “carjacking.”

Section 4 reenacts paragraphs (e) through (i) of subsection (3) of s. 921.0022, F.S.

Section 5 provides an effective date of October 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The Criminal Justice Estimating Conference estimates the fiscal cost of this legislation as:

Fiscal Impact of HB 349						
Fiscal Year	Projected Cumulative Prison Beds Required	Projected Additional Annual Prison Beds Required	Funds Required			
			Annual Operating Costs	Annual Fixed Capital Outlay Costs	TOTAL Annual Funds	TOTAL Cumulative Funds
2006-2007	18	18	\$171,666	\$3,293,274	\$3,464,940	\$3,464,940
2007-2008	83	65	\$978,640	\$2,045,900	\$3,024,540	\$6,489,480
2008-2009	133	50	\$2,134,836	\$1,669,440	\$3,804,276	\$10,293,756
2009-2010	173	40	\$3,087,846	\$1,491,420	\$4,579,266	\$14,873,022
2010-2011	208	35	\$3,933,063	\$1,133,392	\$5,066,455	\$19,939,477
Total	208	208	\$10,306,051	\$9,633,426	\$19,939,477	\$19,939,477

Notes: It was assumed that the incarceration rates for the affected attempted offenses would increase to the FY 04-05 levels for the same completed offenses and that the sentence length distribution for these additional admissions to prison would be the same as for those currently receiving a prison sentence.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES